

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DOUGLAS BISHOP, et al.,

Plaintiffs,

v.

CITY OF BUCKLEY, et al.,

Defendants.

CASE NO. C22-5759-KKE

ORDER GRANTING DEFENDANTS'  
MOTION FOR RULE 35 EXAMINATION

This matter comes before the Court on Defendants' motion for an examination of Cory Bishop under Federal Rule of Civil Procedure 35. Dkt. No. 19. Plaintiffs' response indicates that they do not dispute the need for such an examination, but oppose the motion on the narrow basis that Defendants' motion does not specify what psychological testing would be performed during the examination. Dkt. No. 23. Defendants' reply provides that information and explains that counsel contacted Plaintiffs' counsel to provide this information before the motion was filed and Plaintiffs' counsel did not respond. Dkt. No. 24.

The Court notes that it appears that counsel could have resolved this issue without resorting to motions practice if they had communicated with each other (Dkt. No. 24 at 2). The Court expects counsel to communicate more diligently in the future. Nonetheless, because the concerns

1 raised in Plaintiffs' opposition to Defendants' motion have been resolved via the information  
2 provided in the reply, the Court GRANTS Defendants' motion (Dkt. No. 19) and ORDERS:

3 1. A Rule 35 examination of Mr. Bishop shall be performed by Russell Vandenberg,  
4 M.D., at a location to be agreed upon by the parties on October 23, 2023, at 10 a.m.

5 2. The examination shall include a forensic clinical interview, psychological testing  
6 (MMPI-3), and a review of collateral information. The forensic interview and psychological  
7 testing are anticipated to last no longer than five hours.

8 3. Mr. Bishop is entitled to have one representative (who is not a party or non-party  
9 against whom fault is alleged) present to observe the clinical interview and testing, and may audio  
10 record (but not video record, absent a stipulation of the parties) the clinical interview.

11 4. Following the completion of the evaluation, Dr. Vandenberg will prepare and submit  
12 a report of the examination in compliance with Rule 35.

13 Dated this 6th day of October, 2023.

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16 Kimberly K. Evanson  
17 United States District Judge  
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